

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, November 7, 2016

Those Present: Mr. Rick Stup, Chairman
 Mrs. Maggi Hays, Board Member
 Mr. Jesse Pippy, Board Member
 Mrs. Kathy V. Dean, Administrator
 Mrs. Linda Thall, Senior Assistant County Attorney
 Mr. Bob Shrum, Alcoholic Bev. Inspector
 Mr. Harold DeLauter, Alcoholic Bev. Inspector
 Mrs. Penny Bussard, Administrative Specialist V
 Ms. Ashley Sklarew, Administrative Specialist V

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:00 AM by Chairman Stup.

1. Board Comments: Mr. Stup stated that the agenda will be revised. Under conferences, Spring Ridge Exon will be moved to second.
2. Mrs. Dean provided the violation update and a spreadsheet of all the violations that are going on. No contest letters and scheduled hearing letters have all been sent. There are three hearings scheduled for December 5, 2016. One hearing is under review by the attorney and Mrs. Dean is waiting for direction before moving forward.
3. New Licenses
 - A. Decision

Re: Qaisar Khan and Akhtar Ali
for the use of Razzaq, LLC
t/a Jefferson BP
4607 Lander Road
Jefferson, MD 21755
**Class A, Of Sale, Beer & Light Wine
Sunday Permit**

Mrs. Dean swore in the applicants. The pending items for this case are the final zoning approval, Fire Marshal approval, alcohol awareness person, occupancy permit and the inspector's report. Mr. Khan stated that he took the alcohol awareness class last Thursday and is waiting on the certification. Mr. Khan stated that he will stop by the Zoning office today after the meeting, as the application is complete and Mr. Khan hopes in a week everything will be ready. Mr. Khan wasn't aware of the occupancy permit, but he has filled out the application and hopes to have it completed by the end of the week. Mr. Khan stated he would call the Fire Marshal's office today to follow-up on his inspection. Mr. Khan needs about a week or a week and a half to finish the pending items. Inspector Harold DeLauter stated that he was at the

establishment on October 31, 2016, and he spoke to the applicant about all the requirements that are needed and they do meet all the requirements. Mr. Khan will be directly involved with the business on a daily basis. Mr. Stup stated staff provides outreach training (A.B.L.E) quarterly, which is free. Mr. Stup stated that he encourages licensees, especially new licensees, to take advantage of this free training. Mr. Pippy stated that as a 24 hour establishment Mr. Khan needs to be careful on Sundays as alcohol sales hours don't begin until 11:00am. Mr. Khan stated he does not have any financial interest with the previous owners and he is handling the business, however the old owner still owns the building and property. There was no public comment.

MOTION: Mrs. Hays made a motion for a conditional approval until January 9, 2017.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

B. Decision

Re: Tyler Tu, Charlie Nee and Jean Nee
For the use of Pho TNT, Inc.
t/a Pho TNT
1003 W. Patrick St. #8
Frederick, MD 21702
Class B, On Sale, Beer & Light Wine

Mrs. Dean swore in the applicants. The pending items are the Fire Marshal's approval and the inspector's report. Mrs. Dean stated one of the applicants was a previous licensee for this establishment. Mrs. Dean stated there was a previous violation July 2014, late to file renewal; September of 2015, late to file renewal; July 2016, late to file renewal. Mrs. Dean stated alcohol awareness certification has been submitted for Mr. Tyler Tu and Mr. Charlie Nee. Inspector Shrum stated he was at the establishment on November 5, 2016, and the establishment meets all the requirements of the Board. Mr. Stup stated the applicants are requesting entertainment of piped in music and the application meets the Board's requirements. Mr. Tu stated the establishment will not have outdoor seating. Mr. Tu stated Mr. Nee will be involved with the establishment and will work there five days a week. Mr. Stup informed the applicants of the quarterly free outreach training (A.B.L.E). Mr. Stup stated that he encourages licensees, especially new

licensees, to take advantage of this free training. Mr. Pippy stated the applicants submitted an internal policy to check for id's and thanked the applicants for creating the policy. Mr. Tu stated that the old business partner was in charge of doing the licensing and there was a lot of activity that wasn't complete, which resulted in the business changes. Going forward, Mr. Nee will be in charge of the licensing. Mr. Tu also stated that the application for this new license was completed in less than two weeks, and now with the right people moving forward the paperwork will be handled appropriately. There was no public comment.

MOTION: Mr. Pippy made a motion for conditional approval until January 9, 2017.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

4. Transfers

A. Decision

Re: Kevin Storm, Lauren Storm & Leslie Crowell
for the use of WBL, Inc
t/a Mesa Liquors
7820 Wormans Mill Road, Suite L
Frederick, MD 21701
**Class A, Beer, Wine & Liquor
Sunday Permit**

Mrs. Dean swore in the applicants. The pending items for this application are the retail sales tax license, workers comp, Fire Marshal approval, final taxes, bulk transfer affidavit, and the inspector's report. Mrs. Dean stated that there is a delinquency on the Frederick Wine House's taxes. Mr. Peter Ciferri, Esq., from Powell Flynn LLP representing WBL, Inc., stated that the application is for the transfer of a license and to a new location. The back taxes are for the licenses who is currently at the location where this license is being transferred to, but the back taxes should be resolved this week. Mr. Kevin Storm stated that he thought everything was taken care of, but if that is not the case, he will resolve any pending items quickly. Mr. Storm stated that he would forward the workers comp information. Mrs. Dean stated that the bulk transfer affidavit was mailed out to the establishment and the existing licensee's home address; however, the one that was mailed to the

licensee was returned. Inspector Shrum stated he was at the establishment on November 5, 2016, and the applicant meets all the requirements of the Board. Mrs. Dean stated that Mrs. Lauren Storm is currently on the license for the current location and will be on the license for the transferred license. Mrs. Dean stated there is a history of an hours of operation violation. A no contest letter was sent out and there has not been a response yet. Mr. Storm stated that the violation is his fault, if he wasn't at the establishment he was either at the Liquor Board office or at the attorney's office. Mr. Storm stated the original plan was to have employees staff the current location, but he is now trying to get the transfer resolved. Mr. Ciferri stated that it has taken a long time to get everything in place. Mr. Storm stated that he will be directly involved with the business on a daily basis. Mr. Stup stated staff provides free quarterly outreach training (A.B.L.E) and he encourages licensees, especially new licensees, to take advantage of this free training. Mr. Storm stated a Walmart was to be constructed near the current location; however, those plans have been cancelled. This new location will be a better fit and have more clients. Mr. Storm stated he will be doing Beer and Wine tasting at the new location. Ms. Barbara Zorechak, Co-Owner of the Frederick Wine House, stated she would like to protest the transfer of the license to the Frederick Wine House location. Ms. Zorechak is requesting a continuance because she was excluded from the sale agreement and is not a party to the terms of the sale. Ms. Zorechak stated that she has not seen the sellers list of creditors, nor has she participated in an agreement regarding the order in which the debts of the business will be discharged. Ms. Zorechak continued to state that the co-owner, Mr. Gary Zorechak, did not follow a court order outlining steps to take after receiving a letter of intent to protect his interest and Ms. Zorechak's interest in the sale of the establishment. Ms. Zorechak stated that on October 14, 2016, Mr. Zorechak texted her a picture of an unsigned letter of intent, dated August 25, 2016. Ms. Zorechak stated that she immediately responded via email, stating their marital settlement agreement contained specific steps to follow once a letter of intent was received. She listed those steps in her email and then asked Mr. Zorechak to mail her a copy of the letter of intent, which was not done. Furthermore, Ms. Zorechak told him any communication with the buyer must include her. Mr. Ciferri stated there are a few moving pieces on the application. Mr. Ciferri stated that he understands there are some internal issues with the seller, which he expects to be resolved this week. Mr. Ciferri stated in order to keep things moving he would like to ask for an approval of the license location transfer and ask that the license be held in the office until the matters are resolved. Mrs. Thall stated that if the Board gives a conditional approval it would be contingent on the sale actually going through. Mr. Ciferri stated that is what he was anticipating and that he and his client must complete each prerequisite before the sale can be completed. Ms. Zorechak stated she has filed a petition for contempt to contest the sale. Ms. Zorechak also stated that when Mr. Zorechak sent her a text of the letter of intent, a sales agreement had already been signed by only Mr. Zorechak, Ms. Zorechak was excluded from that process. Mrs. Jennifer Watt, personal representative for

Ms. Zorechak, asked Mr. Ciferri how he knows a sale will happen this week and how an agreement can have been reached about outstanding debts of Frederick Wine House when one of the owners of the business has just now seen a copy of the sales agreement. Mr. Storm stated that on his end everything has been represented to him as a done deal ready to go. Mr. Storm stated that his wife, Mrs. Storm, contacted Ms. Zorechak over a week ago, by multiple phone calls, text and emails and has not received a response. Mrs. Watt stated that Mrs. Storm did reach out to Ms. Zorechak, however it was an emotion appeal based on why Ms. Zorechak was preventing the sale but at no point was there communication from either Mr. or Mrs. Storm at any point since July when it seems the sale had been developed. Mr. Ciferri stated that as the buyer they would like to ask for this location transfer to be approved and that the other issues are outside of this hearing.

MOTION: Mr. Pippy made a motion for a conditional approval until January 30, 2017, contingent upon the sellers being willing to sell, a satisfactory agreement between the sellers and the buyers that is a completed sales contract, and all pending items are completed.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

THE BOARD RESCESSED AT 9:53AM AND RESUMED THE PUBLIC HEARING
AT 10:00 AM

5. Conferences:

A. Sales to Minors

RE: Manisha Patel
For the use of SRI HARI, LLC
t/a Country Stores
209 Jefferson Pike
Knoxville, MD 21758

Class A, Off Sale, Beer & Light Wine
Sunday Permit & Wine Tasting
License #11 AW 5064 SUWT

Mrs. Dean swore in the licensee. Mrs. Thall stated that the Board received an incident report indicating that there was a compliance check on February 20, 2016. As part of the compliance check, a juvenile decoy was sent in. The individual working the cash register rung up the order and failed to ask for any identification and did not ask any questions of the decoy. The person working the register was Mr. Kalpesh Patel. When contacted later by the police, Mr. Patel indicated, according to the report, that he knew he had done wrong and he should have asked the decoy for his identification, but he was just sidetracked with other conversations. According to the police report, there was a sale of alcohol beverages to a minor. Mr. Pippy asked Mrs. Patel if she received a copy of the Board's Rules and Regulations when her license was issued. Mrs. Patel confirmed she did receive a copy of the Board's Rules and Regulations. Mr. Pippy asked Mrs. Patel to flip to page 37. Mr. Pippy stated that the Board wants to make sure that all licensees have as much information upfront as they need in order to be successful. Mr. Pippy read from the Board's Rules and Regulations Responsibility of a licensee, the licensee is personally responsible for the operation of the establishment and is responsible for violations committed not only by the licensee but also the licensee's agents, employees and operators. Mr. Pippy stated that in this case the minor was not even asked for an id. Mr. Patel stated that he is the husband of the licensee and he has been through the alcohol awareness training with Mrs. Patel so he can help her as needed. Mr. Patel stated that on February 20, 2016, three weeks after opening up, a neighbor brought a small dog on the premises in to the store. Mr. Patel was asking the neighbor nicely to remove the dog, but he was not responding so he was in conversation with the neighbor asking him to leave the premises. At the time there were other customers in the establishment. Mr. Patel stated in that exchange he was distracted and he thought he asked for an id but he missed it. Mr. Patel stated that the officers noted the distraction as the neighbor followed the officers in to the parking lot. Mr. Patel stated after that incident they keep the Board's Rules and Regulations at the counter in the front. Mr. Patel stated they changed the Point of Sale system, which now asks whether you have checked the id. Mr. Patel stated that another compliance check happened since then and they successfully passed because they check id for tobacco and alcohol. Mr. Patel stated it is truly because of the distraction that the incident occurred. Mr. Pippy stated that selling alcohol to a minor in the State of Maryland is a misdemeanor. Mr. Pippy stated that as far as he knows the Sheriff's Office doesn't particularly do random compliance checks. They usually only go to an establishment if they have been tipped. Mr. Pippy stated that State Law states if you are convicted twice of selling alcohol to a minor, the Board has to suspend the license and the fines get very steep. Mr. Patel stated they have new processes in place and have successfully passed another compliance check, it will never happen again. Mr. Stup stated that the license was issued in 2016. Mr. Stup commended Mr. Patel in taking steps to improve his process for checking for ids. Mr. Pippy stated that he left a paper on the table for the licensees that can be used if someone comes in with an id that they don't think it is real, have the customer fill out the form and it will reduce the establishment's liability.

B. Sales to Minors

RE: Kamran Youssefieh, Mansoor Anvari & Moghtadi Ghaemi
for the use of Spring Ridge Petro, LLC
t/a Spring Ridge Exxon
6067 Spring Ridge Parkway
Frederick, MD 21701
**Class A, Off Sale, Beer & Light Wine
Sunday Permit
License #11AW 1044 SU**

Mrs. Dean sworn in the licensees. Mrs. Thall stated that this is based on a compliance check by the Frederick County Sheriff's Office. According to the incident report, there was a compliance check with a uniformed and plain clothed officer working with a juvenile decoy. On June 17, 2016, the decoy and plain clothed officer entered the store and the decoy selected an alcoholic beverage and approached the register. There was a male employee working at the register. The employee did ask for the id and it was provided. The id showed that the decoy was under the age of 21 until August of 2018. Mr. Stup asked which modifications have been done since this occurred to make sure it doesn't happen again. Mr. Mansoor Anvari stated he is a partner of the business. Mr. Anvari stated that Roberto was the sales associate who checked the id with a device that computes the age. When you enter the birthdate, there is an option for alcohol and an option for tobacco. Roberto made a mistake by pressing tobacco. This is how Roberto explained it to Mr. Anvari and it was verified. Mr. Anvari stated that Roberto went through the process, employees are trained, the Board's rules and regulations are at the cash register, and employees are trained to check everyone's ids. Mr. Anvari stated new registers were purchased for about \$10,000 and this week a device will be installed to scan the product. If it is alcohol, then the id is scanned and it detects if the customer is under age or not. Mr. Stup warned the licensees that fake ids sometimes look real and work on the computers and everyone has the opportunity to say no if they don't think the person is 21. Mr. Stup wanted to add to the record the other licensees were excused from the conference as they are traveling. Mr. Pippy stated that he was glad to see the changes so the mistake doesn't happen again. Mr. Anvari stated all his employees are alcohol awareness certified. Mrs. Dean stated for the record the only person on file that has alcohol awareness certification is Kamran Youssefieh and he is out of town. Mr. Stup stated that if the only person on record with the Board as being alcohol awareness certified is out of the country, then the establishment is in violation now. Mrs. Dean stated that it is the licensees' responsibility to provide the Board with copies of the certification. On the latest renewal it only lists Mr. Youssefieh as the only alcohol awareness certified person. Mr. Pippy stated that the establishment has been found guilty before, in 2011, for not having an alcohol awareness certified person. Mr. Anvari was not aware of the alcohol awareness requirement. Mr. Pippy stated to Mr. Anvari that as a licensee, he, whether

he was there or not, is personally responsible for what goes on at his establishment. Mr. Pippy stated that the Board offers alcohol awareness classes at an affordable rate. Mr. Pippy stated the alcohol awareness needs to be taken care of right away. Mr. Stup stated that Inspector DeLauter or Inspector Shrum will be at the establishment today and if there are sales of alcohol there will be a violation. Mr. Stup stated it is fine if Mr. Anvari wants to cease alcohol sales today until Mr. Youssefieh is back tomorrow. Mr. Pippy stated the licensees should have a policy in place that everyone's ids are checked. Mr. Pippy stated that the Board will follow up with Mr. Anvari to confirm that Mr. Anvari has contacted or enrolled employees in an alcohol awareness class. Inspector DeLauter recommend the licensee post a sign that alcohol will not be sold at the establishment. Inspector Shrum stated that the alcohol be removed from display and if it is in a cooler to cover it with paper so customers cannot see the alcohol and it's to be secure so that they cannot get in. This practice has been followed in the past.

C. Sales to Minors

RE: Rosmy Ortiz & Dawal Limbachia
for the use of Saini Foods and Beverage LLC
t/a Village Liquors
101 Silo Hill Road Suite 1
Emmitsburg, MD 21727
Class A, Off Sale, Beer, Wine & Liquor
Sunday Permit & Wine Tasting
License #11AL 1098 SUWT

Mrs. Dean swore in the licensees and representatives. Mrs. Thall stated that this is another incident that came to the Board's attention when it received an incident report from the Sheriff's Office. According to the incident report, on February 20, 2016, there was an alcohol compliance check at this establishment. An underage decoy was used and went into the establishment separately with a plain clothed officer. The decoy selected an alcoholic beverage and took it up to the cash register, where there was a man behind the register, later identified Gauray Dixit, who asked the decoy to place his drinks on the counter to be rung up. According to the minor, the clerk never asked for identification or asked him his age. The sale went through. At the time of the sale, Mr. Dixit was the only one behind the register. When the uniformed officer came in and asked Mr. Dixit, he stated that he had not made the sale and that he had just walked out of the bathroom when he was told that there was an undercover officer in the store with the decoy who also observed the sale. Mr. Dixit stated that he doesn't work at the establishment and he was only helping out. Mr. Dixit continued to state that he had not sold anything. At that time the minor came back into the store and identified Mr. Dixit as the person who sold him the alcohol. Mrs. Gopi Saini stated that Mr. Dixit is not present today and that his employment was terminated. Mrs. Saini stated that he was terminated right after this incident happened. Mr. Pippy stated that as a licensee you are responsible for whatever happens at

your establishment. Mr. Pippy stated that on October 25, 2016, the licensees pleaded no contest to not having an alcohol awareness person at the establishment. Mrs. Saini stated that on September 6, the log book at the establishment states she was training a new employee that was just hired and her daughter, who goes to a private elementary school, had to be picked up at 3:20pm. She noted in her log book that she would be gone for less than two hours and she would pick up her daughter and bring her back to the store. Mrs. Saini stated that the employee did not know that the inspector had walked into the store and didn't know that Mrs. Saini had just wrote in the log book as the employee was new and just started working and he was still in training. Mrs. Saini stated she still pleaded guilty even though according to the Board's Rules & Regulations the alcohol awareness person can leave the establishment for two hours and it will not happen again and all employees will know about the log book. All employees are alcohol awareness certified. Mrs. Dean stated that on the renewal there only three people and those people are Mr. Pradeep Saini, Mrs. Gopi Saini and Mr. Harry Welsh. Mr. Chris May, attorney for the licensee, stated that all the employees were just alcohol awareness certified in June and September. The TIPS trainer had emailed a copy of the card to the Board. Mrs. Dean stated that the card that was mailed to the Board states on it that it's for online purposes and not valid if printed. Mrs. Dean is unsure if she can accept these cards. Mr. Stup stated the employees should have their cards by now and copies can be submitted to the Board. Mrs. Saini stated that on June 29th five people took the alcohol awareness training. The trainer stated she would contact the Liquor Board and that within two weeks the individuals would receive their cards. Mrs. Saini stated when she did not receive the cards in two weeks she called the trainer multiple times. Mrs. Dean stated that when the inspector went into the establishment, they gave a list of employees that was not accurate, and the clerk that was there was not listed on the records and didn't have alcohol awareness certification. Mr. Pippy stated that in 2013 there was a violation for no records of employees working at the establishment. Mrs. Saini stated three more employees were trained last week. Mrs. Saini stated she paid online for new cards but has yet to receive them by mail. Mrs. Dean stated that as far as the TIPS class that the instructor cannot tell you the day of the class whether it was passed or not. It has to be graded at TIPS and then sent out. It is sent to the trainers who then send it to each the individual person. Mr. May stated that Mrs. Saini has on email the certification for each person, it says when they took it and the expiration date. Mr. May stated it doesn't make sense for it to say it is not valid if printed. Mrs. Saini stated that she's had the establishment since 2009. Since 2009 they have never had a violation for sales to a minor. Mr. Limbachia has collected 15 to 20 fake ids from Mount Students which have been handed over Inspector Delauter. Mrs. Saini also stated they have a sign at their store that states 100% id check. The id software and technology have been updated to give a date. Mr. Pippy stated that he feels he sees the licensees a lot. Mr. Pippy stated that the licensees are responsible for what happens in their establishment. Mrs. Dean stated that when the inspector

went to the establishment on October 25, he was given a list of employees and it was list for four establishments, one of which the owners don't own anymore. Mr. Dixit was listed as an employee. A correct list was sent the next day. Mr. Pippy stated that the Sheriff's Office does not do random compliance checks. They only go out if there is a tip or a complaint. Mr. Pippy is concerned about the fact that this compliance check was conducted by the Sheriff's Office. Mrs. Saini stated that is why they have everything lined up so it doesn't happen again. Mrs. Saini stated it is set up that if you are of age but do not have an id, then she will not make the sell. Mr. Stup stated that he concurs with Mr. Pippy. If the establishment sells alcohol to a minor again, they will consider it a second offense. Mrs. Hays stated she also agrees with the Board members and Mrs. Hays stated the establishment does not have a good track record. Inspector Shrum stated that at the inspection on October 25, the employee stated that he was certified five months ago but never received the card. Inspector Shrum stated he couldn't fathom why the licensee would wait five months to inquire about the missing cards. Mr. May stated that Mrs. Saini could print out the emails back and forth with the trainer with Mrs. Saini requesting and demanding the certification and the final email from the trainer. Mr. Pippy asked Mrs. Saini to forward those messages to Mrs. Dean. Mrs. Saini asked if a customer who bought a bottle of wine, takes it home tries it, doesn't like it, can he bring it back to the establishment for a refund. Mrs. Dean stated the law states there cannot be any open containers of alcohol on the premises. Mr. Stup stated the money can be returned but they cannot walk in the store with the bottle. Mr. Pippy stated specifically if someone walks in the establishment with an opened container say "sir we cannot accept that back, please take it with you" do not let them leave it there because God forbid you leave it there and someone comes in and sees it there you will be in the same situation as you were last month.

D. Sales to Minors

RE: Keith Davis
for the use of Beachley's Variety Store
t/a Beachley's Variety Store
4602 Old Swimming Pool Road
Braddock Heights, MD 21714
Class A. Off Sale, Beer & Light Wine
Sunday Permit
License #11AW 1158 SU

Mrs. Dean swore in the licensee. Mrs. Thall stated that this case came to the Board's attention after the Sheriff's Office completed a compliance check. The check was on May 2, 2016. According to the Sheriff's Office report, there was an 18 year old individual who was working as an undercover decoy with the Sheriff's Office. The decoy walked into the establishment to purchase alcohol and the plain clothed officer who went in with the decoy observed him buying a cold can of 24 oz Coors Lite. The decoy purchased the alcohol without providing

any form of identification and left the establishment with a can of beer. According to the police officer, the cashier was described as being an older white female. When the officer walked into the store and attempted to talk to the cashier, she was no longer there and she was identified as someone who just recently left. The officer caught up with her at her car as she was leaving the parking lot and she did identify herself as the cashier at Beachley's Variety Store. When asked if she recalled waiting on a younger white male with dark hair, she said yes. She was asked what he purchased and if she had asked for any form of identification. The woman replied no, she thought he was older but remembered what he had bought. Mrs. Dean stated there are no employees listed on the renewal, it states that he is an employer not required to have Workers Compensation, so there are no employees listed for him. However, under alcohol awareness there is listed Marie Waltman and Mr. Keith Davis. Mr. Stup stated that Mr. Davis was on a one-year probation for a previous sales to minors violation. Mr. Stup stated the Board may still go forward with the violation. Mr. Stup stated that the Board is very troubled and concerned and really needs to know what is going on. Mr. Stup asked Mr. Davis if he has or doesn't have employees and why doesn't he have the required Workers Comp that is required for employees. Mr. Stup stated this is more than your last chance and your get out of jail free card and the Board still may go forward with this case. Mr. Pippy stated that this license was issued in 1977, there was a sales to minors in 1985, sales to minor in 1987, sales to minor in 1994, sales to minor in 2007, sales to minor in 2015 where a large fine was assessed and a one year probation, and in 2016 there is another sales to minor. Mr. Pippy stated with a history like this and knowing Mr. Davis is on probation, he cannot afford another sales to minor violation. Mr. Pippy asked why isn't everyone one under 35 or 40 or everybody carded? Mr. Pippy stated the Board would be doing a disservice to the public by not pursuing charges. Mr. Pippy stated it looks like nothing has changed as it's a consistent history of sales to minors. This is a criminal offense; this isn't just an administrative issue. When asked, Mr. Davis stated Ms. Waltman has worked for him for 13 years. Mrs. Hays stated that last year when Mr. Davis was in front of the Board, she remembers reading in the case file the reason the compliance check was done is because there were so many complaints of young boys buying alcohol at the establishment. Mrs. Hays stated business cannot continue this way. Mr. Stup stated for the record there was a one week suspension of the license but it was bought back, and if probation was violated and found guilty, then that one week would be added back to whatever additional penalties of suspension would be done. Mr. Davis stated in reference to the employee situation, Ms. Waltman is under the certain number of hours she can be considered laborer since she started working. Mr. Davis stated that Ms. Waltman normally asks for ids for people who are 30 and trying to buy cigarettes. The day this incident occurred, the one officer was in the corner of the store hollering if she had a certain type of wine. There also happened to be a disabled veteran at the establishment asking Ms. Waltman questions. Then the decoy came up to the counter and paid for beer, all while Ms. Waltman was getting ready to leave. Mr. Davis stated he isn't trying to give an excuse just trying to explain what happened. Mr. Davis stated that he and

Ms. Waltman are the only two that work there and that this is his only business. Mr. Stup stated that when the Board allowed the buy back for Mr. Davis, he indicated that if he was shut down for a week he would be out of business. Mr. Pippy stated that the statutory requirement for back to back sales to minors under two years for sentencing he believes it is mandatory that there is a suspension. Mr. Pippy stated he would never want to do anything to hurt a business knowing that it is difficult to run, and to make a living but the risk that comes with operating a liquor business is that there is a higher responsibility to the public. The greatest responsibility is not selling to minors. The fact that there is a second sales to minor violation in less than a year when Mr. Davis was knowingly on probation and the Board was lenient and allowed the buy-back option. Mr. Pippy stated he would hate to see anything happen to the business but public safety is the Board's number one priority and this is a history of unsafe behavior. Mr. Davis stated he put a card on the register that states, card everybody. Mr. Pippy stated Mr. Davis should have done that in the 80's after the first violation and then again in the 90's and then again in the early 2000's. Mrs. Dean confirmed that for major violations that occur within two years there is mandatory suspension. Mr. Stup stated the Board may still decide to move forward with a violation. Mr. Stup stated he is not very enthused about the steps Mr. Davis has taken to improve the situation. Mr. Davis stated he is open to suggestions. Inspector DeLauter stated he known Mr. Davis for a lot of years. He is respectful towards Inspector DeLauter; however, his record speaks for itself. Inspector Shrum stated that he has had very limited experience with Mr. Davis but every time he has been polite, cooperative and respectful with Inspector Shrum. Mr. Davis stated he apologizes to the Board and any suggestions, he will do more, and he will try harder. Mr. Davis stated that Ms. Waltman is a good employee and he doesn't feel he should let her go, but he is open to any suggestions that will allow him to continue to operate. Mr. Stup strongly suggested that all customers are carded even if the person is 100 years old. Mr. Davis stated that Ms. Waltman has already begun carding everyone. Mr. Davis stated that he has customers that have told him that they will not go into the establishment while Ms. Waltman is working because she cards everyone. Mr. Davis stated this was just a weak moment for Ms. Waltman as she was overly occupied, which is no excuse. Mrs. Dean stated that the file states Mr. Davis and Ms. Waltman have current alcohol awareness training. Mrs. Dean stated she also has Mr. Ronald Davis listed as an employee. Mr. Davis stated that Mr. Ronald Davis is his brother. Mrs. Dean stated that an employee list in the file from late August/early September has Ms. Waltman as an employee who works from 10am-4pm every day during the week. Mr. Davis stated Mr. Ronald Davis is not alcohol awareness certified and he hardly ever works. Mr. Stup stated for the record that there typically are not motions at conferences, but it's not anything in the rules or anything that states the Board cannot have a motion so if Mr. Pippy wants to make a motion he can. Mr. Pippy stated he would like to help Mr. Davis out but he thinks the Board has thought hard about a lot of these violations and histories and tries to work with the licensees and give them the benefit of the doubt and have been lenient in many cases. But, the history here doesn't show that Mr. Davis' behavior is going to

change. Nothing has been put in place and the fact that Mr. Davis is asking the Board now that he is open for suggestions is concerning. Mr. Pippy stated between now and December 5, 2016, Mr. Davis needs to come up with how something like this will be prevented from happening again in the future and that may have an impact on the sentencing. Mr. Pippy stated he cannot look at this history and the fact that Mr. Davis had a charge less than a year ago and is technically on probation right now and a suspension was waived to give Mr. Davis the benefit of the doubt. Mr. Davis still violated it and it wasn't with some seasonal employee, it's with someone who has been there for 13 years. It seems like it is just Mr. Davis and Ms. Waltman running the establishment and this shouldn't happen. There should not be this many sales to minor violations. It doesn't do the public good to not address this. There needs to be a major change in the course of action. Mr. Davis stated that he probably has the oldest license that is still operating in Frederick County. Mr. Pippy stated Mr. Davis may have the most sales to minors on record of all of the licenses. Mrs. Thall asked Mr. Davis whether, light of his statements, he would be willing to plead guilty to selling to a minor to alleviate the need to bring in the officers and the witnesses for a formal hearing. Mr. Davis could still submit to the Board any mitigating circumstances or plans to satisfy some of the concerns that were discussed today. Mrs. Thall stated that Mr. Davis has the right if he chooses to do so, to come back in front of the Board and present a formal defense and he has a right to be represent by counsel. If Mr. Davis is not contesting the incident itself and the discussion is more about penalty and mitigating factors, this can be resolved and everybody can move on. Mr. Davis stated he is open for discussion on what the penalty would be if he pleaded guilty today. Mr. Stup stated that the establishment will be closed for a week at the least for breaking probation.

MOTION: Mr. Pippy made a motion that a violation charge is pursued for this violation for a sale of alcohol to a minor to be held on January 9, 2017.

SECOND: Mrs. Hays seconded the motion

FURTHER DISCUSSION ON THE MOTION:

Mr. Stup stated that he stands behind his colleagues but cannot vote for the motion because of advice from counsel.

VOTE: Mr. Stup-Nay
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was: **Aye-2, Nays-1**
(Motion Passed)

6. Minutes: Mr. Stup stated there aren't any minutes. Ms. Sklarew stated that the minutes are behind. September 26 staff minutes are complete and Ms. Sklarew will forward those to Mrs. Thall once the public hearing minutes are complete for that date as well. Mrs. Thall stated that there are substantial problems with the older minutes that were prepared by a temporary employee. Mrs. Thall

stated that the minutes are of very poor quality and are not suitable to bring to the Board for approval. Mr. Stup stated that staff is working on the newest minutes first and going backwards in time.

7. Public Comment: There was no public comment
8. Mr. Stup stated the next public hearing is scheduled for December 5, 2016. There will be violations on the agenda.
9. Adjournment: The meeting was adjourned at 11:37pm

Respectfully submitted,
Kathy V. Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Ashley Sklarew